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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,754	02/17/2004	Naoki Oguchi	FUSKA 20-981	9770
26304 7590 10/17/2008 KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585				
EXAMINER				
MAIS, MARK A				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/779,754

Applicant(s)

OGUCHI ET AL.

Examiner

MARK A. MAIS

Art Unit

2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "computer readable recording medium".

Claim Rejections - 35 USC § 112

2. Claims 13-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not provide support for "computer readable recording medium" as is now claimed.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-18 are rejected under 35 U.S.C. 102 (e) as being anticipated by Jamieson et al. (USP 6,813,644).

3. With regard to claim 1, Jamieson et al. discloses a virtual path configuration apparatus used in a virtual private network to interconnect a plurality of user networks via virtual paths and that is arranged in each node **[Abstract]**, comprising:

a configuration information setting unit that *includes an input device for inputting setting commands and information on ports and nodes*, **[this is inherent; BGP VPN data, col. 7, lines 44-47; as well as VPN Link data (col. 7, line 43); thus, each PE supports links across multiple links (link paths), col. 7, lines 30-42] and that sets configuration information that is information about configuration of the virtual private network [Fig. 1, Each PE contains a link database, and BGP VPN databases, col. 7, lines 30-57; each PE only maintains relevant entries (per VPN)]**;

a configuration information sharing unit that shares the configuration information with other virtual path configuration apparatuses in the virtual private network by transmitting the configuration information set by the configuration information setting unit to the other virtual path configuration apparatuses or receiving configuration information from the other virtual path configuration apparatuses **[Fig. 1, each PE is solicit-capable such that, upon receipt of a VPN connection request (without the**

VPN Reachability Information (VRI)), the PE will transmit a VRI request to all peer nodes, col. 7, line 66 to col. 8, line 15)]; and

a virtual path configuration unit that configures the virtual path based on the shared configuration information **[once the peer node determines that it has received the VRI for that particular VPN, it transmits it to the requesting PE, col. 8, lines 16-23].**

4. With regard to claim 2, Jamieson et al. discloses that the configuration information setting unit sets additional configuration information that is information that is to be added to the configuration information set previously,

the configuration information sharing unit transmits the additional configuration information to the other virtual path configuration apparatuses **[peer nodes]** and receives additional configuration information from the other virtual path configuration apparatuses **[once the peer node determines that it has received the VRI for that particular VPN, it transmits it to the requesting PE, col. 8, lines 16-23], and**

the virtual path configuration unit reconfigures the Virtual path based on configuration information obtained by adding the additional configuration information to the configuration information set previously **[the PE stores the VRIs received from its peer nodes, col. 8, lines 40-48].**

5. With regard to claim 3, Jamieson et al. discloses that the configuration information setting unit sets deletion configuration information that is information that is to be deleted from the configuration information set previously ,

the configuration information sharing unit transmits the deletion configuration information to the other virtual path configuration apparatuses **[peer nodes]** and receives deletion configuration information from the other virtual path configuration apparatuses **[Fig. 1, each PE is solicit-capable such that, upon receipt of a VPN disconnect request, (without VRI), the PE will transmit a VPN withdraw message to peer node, col. 8, lines 49-64]**, and

the virtual path configuration unit reconfigures the virtual path based on configuration information obtained by deleting the deletion configuration information from the configuration information set previously **[the PE deletes the send list and VRI (both adj-RIB-In/Out), col. 8, lines 54-64]**.

6. With regard to claim 4, Jamieson et al. discloses that the configuration information sharing unit monitors states of the other virtual path configuration apparatus **[each PE monitors VPN information—the send list is used to distribute the changes to the appropriate peers (those which are relevant), col. 7, lines 49-65]**.

7. With regard to claim 5, Jamieson et al. discloses that the configuration information includes information about nodes to which the user networks attach **[BGP VPN data, col. 7, lines 44-47; as well as VPN Link data (col. 7, line 43); thus, each PE**

supports links across multiple links (link paths), col. 7, lines 30-42], and the virtual path configuration unit configures virtual paths between the nodes in a full mesh manner [all relevant entries (per VPN) are stored, col. 7, lines 58-65].

8. With regard to claim 6, Jamieson et al. discloses that the configuration information includes information about ports **[inherent]** to which the user networks attach **[BGP VPN data, col. 7, lines 44-47; as well as VPN Link data (col. 7, line 43); thus, each PE supports links across multiple links (link paths), col. 7, lines 30-42; this is interpreted as command, port, and node information]**, and the virtual path configuration unit configures virtual paths between the ports in a full mesh manner **[all relevant entries (per VPN) are stored, col. 7, lines 58-65].**

9. With regard to claims 7 and 13, Jamieson et al. discloses a virtual path configuration method and computer *readable recording medium storing instructions* **[inherent]** executed on a virtual path configuration apparatus used in a virtual private network for interconnecting a plurality of user networks via virtual paths and that is arranged in each node **[Abstract]**, comprising:

inputting setting commands and information on ports and nodes **[this is inherent; BGP VPN data, col. 7, lines 44-47; as well as VPN Link data (col. 7, line 43); thus, each PE supports links across multiple links (link paths), col. 7, lines 30-42; this is interpreted as command, port, and node information];**

setting configuration information that is information about configuration of the virtual private network **[Fig. 1, Each PE contains a link database, and BGP VPN databases, col. 7, lines 30-57; each PE only maintains relevant entries (per VPN)]**;

sharing the configuration information with other virtual path configuration apparatuses in the virtual private network by transmitting the configuration information set by the configuration information setting unit to the other virtual path configuration apparatuses or receiving configuration information from the other virtual path configuration apparatuses **[Fig. 1, each PE is solicit-capable such that, upon receipt of a VPN connection request (without the VPN Reachability Information (VRI)), the PE will transmit a VRI request to all peer nodes, col. 7, line 66 to col. 8, line 15)]**; and

configuring the virtual path based on the shared configuration information **[once the peer node determines that it has received the VRI for that particular VPN, it transmits it to the requesting PE, col. 8, lines 16-23]**.

10. With regard to claim 8 and 14, Jamieson et al. discloses that the setting includes setting additional configuration information that is information that is to be added to the configuration information set previously,

the sharing includes transmitting the additional configuration information to the other virtual path configuration apparatuses **[peer nodes]**, or receiving additional configuration information from the other virtual path configuration apparatuses **[once**

the peer node determines that it has received the VRI for that particular VPN, it transmits it to the requesting PE, col. 8, lines 16-23], and

the configuring includes reconfiguring the virtual path based on configuration information obtained by adding the additional configuration information to the configuration information set previously **[the PE stores the VRIs received from its peer nodes, col. 8, lines 40-48].**

11. With regard to claim 9 and 15, Jamieson et al. discloses that the setting includes setting deletion configuration information that is information that is to be deleted from the configuration information set previously,

the sharing includes transmitting the deletion configuration information to the other virtual path configuration apparatuses **[peer nodes]**, or receiving deletion configuration information from the other virtual path configuration apparatuses **[Fig. 1, each PE is solicit-capable such that, upon receipt of a VPN disconnect request, (without VRI), the PE will transmit a VPN withdraw message to peer node, col. 8, lines 49-64], and**

the configuring includes reconfiguring the virtual path based on configuration information obtained by deleting the deletion configuration information from the configuration information set previously **[the PE deletes the send list and VRI (both adj-RIB-In/Out), col. 8, lines 54-64].**

12. With regard to claim 10 and 16, Jamieson et al. discloses that the sharing includes monitoring states of the other virtual path configuration apparatus **[each PE monitors VPN information—the send list is used to distribute the changes to the appropriate peers (those which are relevant), col. 7, lines 49-65].**

13. With regard to claim 11 and 17, Jamieson et al. discloses that the configuration information includes information about nodes to which the user networks attach **[BGP VPN data, col. 7, lines 44-47; as well as VPN Link data (col. 7, line 43); thus, each PE supports links across multiple links (link paths), col. 7, lines 30-42]**, and the virtual path configuration unit configures virtual paths between the nodes in a full mesh manner **[all relevant entries (per VPN) are stored, col. 7, lines 58-65].**

14. With regard to claim 12 and 18, Jamieson et al. discloses that the configuration information includes information about ports **[inherent]** to which the user networks attach **[BGP VPN data, col. 7, lines 44-47; as well as VPN Link data (col. 7, line 43); thus, each PE supports links across multiple links (link paths), col. 7, lines 30-42]**, and the virtual path configuration unit configures virtual paths between the ports in a full mesh manner **[all relevant entries (per VPN) are stored, col. 7, lines 58-65].**

Response to Arguments

15. Applicants' arguments filed on June 10, 2008 have been fully considered but they are not persuasive.

16. With respect to claim 1, Applicants state that Jamieson et al. fails to disclose an input device for inputting commands and information on ports and nodes **[See Applicants' Amendment dated June 10, 2008, page 6, paragraph 6 to page 7, paragraph 1]**. Applicants state that Jamieson et al. does not specifically disclose how the link database and/or the BGP VPN database set configuration information (apparently because it is not disclosed in Fig. 1) **[See Applicants' Amendment dated June 10, 2008, page 7, paragraph 2]**. Applicants further state that Jamieson et al. does not specifically disclose how the configuration information is shared because the configuration information setting unit, apparently, cannot be the same device as the configuration sharing unit **[See Applicants' Amendment dated June 10, 2008, page 7, paragraph 3]**. Specifically, Applicants argue that the CPE in Jamieson et al. is the configuration information setting unit and that Jamieson et al. merely shares VPN Reachability Information (VRI) **[See Applicants' Amendment dated June 10, 2008, page 7, paragraph 4 to page 8, paragraph 3]**. Applicants make similar arguments for independent claims 7 and 13 **[See Applicants' Amendment dated June 10, 2008, page 8, paragraph 4]**. The examiner respectfully disagrees.

17. First, as noted in the rejection of claim 1, Jamieson et al. discloses a configuration information setting unit that includes an input device for inputting setting commands and information on ports and nodes, **[this is inherent; BGP VPN data, col. 7, lines 44-47; as well as VPN Link data (col. 7, line 43); thus, each PE supports links across**

multiple links (link paths), col. 7, lines 30-42; this is interpreted as command, port, and node information] and that sets configuration information that is information about configuration of the virtual private network **[Fig. 1, each PE contains a link database, and BGP VPN databases, col. 7, lines 30-57; each PE only maintains relevant entries (per VPN)]**.

18. Second, if Applicants are arguing that the information setting unit cannot be the same as the sharing unit (or must be housed in a different box), such limitations are not seen in the claims. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies [i.e., the information setting unit cannot be the same as the sharing unit (or must be housed in a different box)] are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

19. Third, if Applicants are arguing that configuration information cannot be VPN Reachability Information (VRI), such a limitation is not seen in the claims. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies [i.e., configuration information cannot be VPN Reachability Information (VRI)] are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

20. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

21. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

(a) Previdi et al. (USP 7,433,320), System and methods for network path detection.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK A. MAIS whose telephone number is (571)272-3138. The examiner can normally be reached on M-Th 5am-4pm.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing F. Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 14, 2008

/Mark A. Mais/

Examiner, Group Art Unit 2619

/Wing F. Chan/

Supervisory Patent Examiner, Art Unit 2619

10/14/08